

REMARKS

This is in response to the Office Action of December 26, 2008. Applicants gratefully acknowledge the Examiner's indication that this application contains allowable subject matter. Claims 1-29, 31, and 33-42 are cancelled, without prejudice. Claims 30 and 32 are rewritten in independent form. New claims 47-52 are added, directed to embodiments falling within Formula (I) in which the symbol AZA has the formula (D) and/or (E). No new subject matter is added to the application by this Amendment. Claims 30, 32, and 44-52 are now pending in this application.

Objection

On page 2 of the Office Action, the Examiner objects to claims 1, 6, 14-18, 21-25, 30-42, and 44 on the ground that they contain non-elected subject matter. Applicants respectfully submit that this is not a valid ground for objection. In fact, as the Examiner is no doubt aware, when there is a generic claim and an election of species, the generic claim always contains non-elected subject matter. Applicants respectfully request that the objection be withdrawn.

Written description

Composition of matter claims 1, 6, 14-18, 21-25, 31, 33, and 44 are rejected under the first paragraph of 35 U.S.C. § 112 as failing to comply with the written description requirement. Office Action, pages 2-5. In the paragraph bridging pages 2-3 of the Office Action, the Examiner indicates that certain narrow aspects of the invention comply with the statute. The Examiner contends, however, that the application fails to reasonably convey to the artisan that the inventors had possession of the full scope of compounds embraced by the rejected claims. Applicants have now significantly narrowed the scope of the claims herein. Applicants respectfully submit that extrapolation from the extensive disclosure in the application of how to make and use the presently claimed compounds to the full scope of the claims in their present form is reasonable, given the nature of the invention and the state of the relevant art.

Accordingly, to the extent that it might be applied to any of claims 44-52 herein, withdrawal of this ground of rejection is in order and is earnestly solicited.

Enablement

Method of use claims 34-42 are rejected under the first paragraph of 35 U.S.C. § 112 as exceeding the scope of the enabling disclosure. Office Action, pages 5-7. This ground of rejection is rendered moot by the cancellation of those method claims from the application.

Indefiniteness

On pages 7-8 of the Office Action, method of use claims 34-42 are rejected under the second paragraph of 35 U.S.C. § 112 as failing to define the invention properly. This ground of rejection is rendered moot by the cancellation of those method claims from this application.

Rejoinder requested

The Examiner is respectfully requested to consider claim 45 on its merits along with the remainder of the claims currently pending in this application.

Contact information

Please contact Richard Gallagher (Reg. No. 28,781) at (703) 205-8008 with any questions concerning the present application.

Dated: March 26, 2009

Respectfully submitted,

By 
Gerald M. Murphy, Jr.
Registration No.: 28,977
BIRCH, STEWART, KOLASCH & BIRCH, LLP
Falls Church, Virginia
(703) 205-8000
Attorney for Applicant